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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/782,619	02/18/2004	Stephen M. Hutnik	2003-0104	5093

26652 7590 05/05/2006

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EXAMINER
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APPIAH, CHARLES NANA

ART UNIT	PAPER NUMBER
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2617

DATE MAILED: 05/05/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/782,619

Applicant(s)

HUTNIK ET AL.

Examiner

Charles N. Appiah

Art Unit

2617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 18 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-14 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-14 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 2/13/06.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Information Disclosure Statement***

1. The information disclosure statement (IDS) submitted on 13 February 2006 is in compliance with the provisions of 37 CFR 1.97. Accordingly, the examiner has considered the information disclosure statement.

### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1-4, 6, 12 and 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Tremblay et al. (US 2004/0047287).

Regarding claim 1, Tremblay discloses a method of optimizing network routing and load distribution in a virtual network, comprising: obtaining geographical coordinates for a user a device (inherent in end user sending a request to an Internet Service Provider to access content from a Web site, see page 2, [0029], page 3, [0051]), determining an optimal network server for the user device based on the geographical coordinates (obtaining information regarding the local network the ISP and End User are on, see page 3, [0039-0040], page 4, [0072]), and connecting the user

device to the virtual private network through the optimal network server (geographic redirection based on End User's path, see page 5, [0096-0098], page 6, [0100-0101]).

Regarding claim 2, Tremblay further discloses wherein the step of determining comprises the user device automatically selecting the optimal network server based on the geographical coordinates (geographic redirection based on End User's path, see page 5, [0096-0098], page 6, [0100-0101]).

Regarding claim 3, Tremblay further discloses wherein the step of determining comprised the user device sending the geographical coordinates to an authentication server for selecting the optimal network server based on the geographic coordinates (see page 5, [0091], page 7, [0146] to page 8, [0157]).

Regarding claim 4, Tremblay further discloses wherein the optimal network server is based on proximity to the user device (see page 3, [0040]).

Regarding claim 6, Tremblay further discloses authenticating the user device before allowing it to be connected to the virtual private network (see page 4, 0064)).

Regarding claim 12, Tremblay discloses a virtual private network (Fig. 4), comprising: a plurality of network servers (remote servers 74), an authentication server (geographic authentication system 80), connected to the network servers, the authentication server connected to the network servers, the authentication server having a virtual private network host (ISP 72), executing thereon and configured to: receive geographical coordinates for a user requesting access to the network servers (inherent in end user sending a request to an Internet Service Provider to access content from a Web site, see page 2, [0029], page 3, [0051]), determines an optimal

network server for the user device based on the geographical coordinates (obtaining information regarding the local network the ISP and End User are on, see page 3, [0039-0040], page 4, [0072]), and send identifying information for the optimal network server to the user (geographic redirection based on End User's path, see page 5, [0096-0098], page 6, [0100-0101]).

Regarding claim 13, Tremblay further discloses a remote access server capable of connecting the user device to the virtual private network and also the Internet communication being made over local network interconnecting End User and his ISP, see page 3, [0040-0041]).

4. Claims 7, 8 and 9 are rejected under 35 U.S.C. 102(e) as being anticipated by Brescia (EP 1302869).

Regarding claim 7, Brescia discloses a user device capable of automatically connecting to an optimal network server in a virtual private network (Fig. 1), comprising: location reporting equipment connected to the user device and configured to provide geographical coordinates for a location of the user device (see col. 5, lines 1-8), a central processing unit connected to the location reporting equipment and a storage unit connected to the central processing unit, the storage unit storing a virtual private network thereon (inherent feature of mobile terminals 24, 26), that is capable of: obtaining geographical coordinates for the user device from the location reporting equipment (see col. 5, lines 1-15), determining an optimal network server for the user device based on the geographical coordinates (see col. 8, lines 15-29), and connecting

the user device to the virtual private network through the optimal network server (see col. 8, lines 30-38).

Regarding claim 8, Brescia further discloses wherein the location reporting equipment is a GPS module (location information being delivered using GPS devices, col. 5, lines 1-8).

Regarding claim 9, Brescia further discloses wherein the virtual private network client determines the optimal network server by selecting it from a list of network servers based on the geographical coordinates (selection of preferred address from which to request content for delivery based on the location of the mobile terminal see col. 4, line 45 to col. 5, line 32).

### ***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay et al as applied to claim 1 above, and further in view of Huetsch et al. (US 2002/0049842).

Regarding claim 5, Tremblay fails to disclose wherein the optimal server is selected based on load distribution.

In an analogous filed of endeavor, Huetsch discloses a load balancing method wherein a processing server is selected to service a client request based on information about locations of clients and the relative processing load of the processing servers (see page 1, [0009- 0010, page 3, [0034-0039]).

It would therefore have been obvious to one of ordinary skill in the art to provide Huetsch load balancing capability to Tremblay's system in order to ensure even distribution of load over servers in order to improve network performance while reducing latency in service provisioning.

7. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brescia as applied to claim 7 above, and further in view of Tremblay et al. (2004/007287).

Regarding claims 10 and 11 Brescia discloses the provision of location-based services which inherently includes a network access device connected to the inherent central processing unit (see Fig. 1), but fails to explicitly disclose a network access the network access device is capable of establishing a broadband connection as well as narrowband connection between the user device and the virtual private network.

In an analogous field of endeavor, Tremblay discloses a method for content distribution over a communication network wherein Web site information being requested could include content such as text, graphics, audio files, video files or other data as well as multimedia content requiring high bandwidth such as digital movies or video email (see page 3, [0042-0043]), which suggests the capability of both broadband and narrowband connections.

It would therefore have been obvious to one of ordinary skill in the art to ensure the provision of broadband and narrowband connection capability to the system of Brescia in order to ensure the availability of multimedia content to subscribers.

8. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Tremblay et al as applied to claim 14 above, and further in view of Dunk (US 2004/0264465).

Regarding claim 14, Tremblay fails to explicitly teach wherein at least one of the network servers is a tunnel server.

Dunk discloses the use of a plurality of tunnel servers to facilitate communication of user information between a host computer and of an IPv4 communication network and a wireless communication device (see Figs. 1-2). According to Dunk tunnel servers provide access points into serving network for host computers and they perform tunneling protocol for establishing tunnel connections with host computers (see page 3, [0033-0035]).

It would therefore have been obvious to one of ordinary skill in the art to provide the tunnel server capability of Dunk to Tremblay's system in order to ensure the establishment and maintenance of secure connections for content delivery.

### ***Conclusion***

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. McCann (EP 1180873) discloses a system for delivering information services to users of local area networks.



Sato (US 2005/0055374) discloses a method for providing localized information from an Internet server or portal.


Baumeister et al. (US 2003/0115258) discloses a system for optimizing network routing using the network topology.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Charles N. Appiah whose telephone number is 571 272-7904. The examiner can normally be reached on M-F 7:30AM-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marsha Banks-Harold can be reached on 571 272-7905. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

CA

  
**CHARLES APPIAH**  
**PRIMARY EXAMINER**